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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 MICHAEL SATTARI,

11 Plaintiff,

12 v.

13 WASHINGTON MUTUAL,

14 Defendant.
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Case No. 2:09-CV-00768-KJD-PAL

ORDER

16 Presently before the Court are several letters (#28) which *pro se* Plaintiff has sent to the
17 Court. Construing the *pro se* pleadings liberally as the Court must, the Court considers the letters as
18 Motions for Stay Pending Appeal.

19 The Ninth Circuit has treated the standard for determining whether a stay pending appeal
20 should be granted as the same as a preliminary injunction. Golden Gate Restaurant Ass'n v. City and
21 County of San Francisco, 512 F.3d 1112, 1115 (9th Cir. 2008). The Supreme Court recently clarified
22 the standard for a preliminary injunction to require a plaintiff to show “[1] he is likely to succeed on
23 the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that
24 the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” Winter v.
25 Natural Res. Def. Council, Inc., 129 S.Ct. 365, 374 (2008) (citations omitted). Winter overturned a
26 Ninth Circuit case where the injunction had been issued based solely on “a “possibility” of

1 irreparable harm.” Id. Prior to Winter, the Ninth Circuit had used a standard that considered the
2 same elements listed in Winter on a continuum, such that a strong showing of likelihood to succeed
3 on the merits could make up for a deficiency in showing the probability of irreparable harm. Golden
4 Gate, 512 F.3d 1115-1116 (citing Lopez v. Heckler, 713 F.2d 1432, 1435 (9th Cir.1983)).

5 Accordingly, the Court must deny Plaintiff’s request for a stay pending appeal, because he
6 cannot demonstrate a likelihood of success on the merits. His letters sometimes refer to the Court
7 entering judgment in favor of Wells Fargo instead of Defendant Washington Mutual. Plaintiff is
8 incorrect. The Court’s orders and judgment only reference Washington Mutual. Furthermore,
9 Plaintiff cannot demonstrate that the balance of equities tips in his favor. He has lived in his home
10 without making payments for nearly two years, and collected rent on his rental property for at least a
11 year without making payments to the lender on that home. Equity does not favor Plaintiff in this
12 action. Even if the continuum has not been rejected, the Court would still deny the motion for the
13 stated reasons.

14 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motions for stay pending appeal are
15 **DENIED.**

16 DATED this 28th day of October 2010.

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20 Kent J. Dawson
21 United States District Judge
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